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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RUSSELL GREER

Plaintiff

v.

JOSHUA MOON ET AL,

Defendants

**PLAINTIFF'S RULE 60(b)(1) & FRCP
60(b)(6) MOTION FOR
RECONSIDERATION ON ECF 227 &
AND FOR THE ORDER TO BE SET
ASIDE**

Case No.: 2:24-cv-00421-DBB-JCB

Pursuant to FRCP 60, Plaintiff Russell Greer comes now and asks for the Court to reconsider its 2-10-25 Order (ECF 227).

INTRODUCTION

Plaintiff respectfully comes now and asks for Reconsideration of the Magistrate Judge's Order to Compel production of documents and its finding that plaintiff violated Rule 37. Plaintiff affirms that the case number and related documentation of the 2018 ex parte restraining order was given to Defendants on 1-7-25. It was excusable neglect to not have followed up to ensure defendants received what they were seeking, but there was no bad faith. This motion is filed under FRCP 60(b)(1) & FRCP 60 (b)(6).

FRCP 60

Federal Rules of Procedure 60(b)(1) reads: "On motion and just terms, the court may relieve a party...from a final judgement, order or proceeding for the following reasons: (a)... excusable neglect." Subsection (b)(6) reads, "Any other reason that justifies relief."

Pro Se FRCP 60(b)(1) & (b)(6) Standards

The Tenth Circuit has held that the "most favorable consideration that can be given to plaintiffs' motion, in light of their pro se status, is to treat it as one made under either Rule 60(b)(1) ("mistake, inadvertence, surprise, or excusable neglect") or Rule 60(b)(6) ("any other reason justifying relief").

"[F]or purposes of Rule 60(b), 'excusable neglect' is understood to encompass situations in which failure to comply with a ... deadline is attributable to negligence." *Pioneer Inv. Servs. Co. v. Brunswick Assoc. Ltd. P'ship*, 507 U.S. 380, 394, 113 S.Ct. 1489, 123 L.Ed.2d 74 (1993). More generally, "[t]he ordinary meaning of 'neglect' is 'to give little attention or respect' to a matter, or, closer to the point for our purposes, 'to leave undone or unattended to esp[ecially] through carelessness.' The word therefore encompasses both simple, faultless omissions to act and, more commonly, omissions caused by carelessness." *Id.* at 388, 113 S.Ct. 1489. The determination of

whether neglect is excusable "is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." *Pioneer Inv. Servs. Co.*, 507 U.S. at 395, 113 S.Ct. 1489(discussing application of the excusable neglect standard of Fed. R. Bankr.P.R. 9006(b)(1)).

Rule 60(b)(6) has been described by this court as a "grand reservoir of equitable power to do justice in a particular case." *Pierce v. Cook & Co.*, 518 F.2d 720, 722 (10th Cir.1975) (en banc)

Plaintiff asks for reconsideration under both FRCP 60 standards: (B)(1) and B(6).

Facts

Plaintiff Did Cooperate with Defendants and told defendants he didn't have the document on him

On 1-6-25, the parties had a telephonic meet and confer. Plaintiff agreed to give defendants a copy of an ex parte restraining order he had filed against Joshua Moon in 2018. Plaintiff also told the defendants he had to get the document from the Utah courthouse because he did not personally have the document on him.

A kiwi farms user used a fake name to try obtaining the document

On 1-7-25, plaintiff was informed by the 3rd Judicial District of Utah that a person going by the name "James Jorton" had tried obtaining the document, but was denied because he wasn't a party to the case. **EXHIBIT A.**

Plaintiff asked who James Was

Plaintiff was honestly spooked because not even a day after the meet and confer, this complete stranger was trying to obtain the SAME document that Defendants sought. Plaintiff asked who James was and Defendants claimed to not know who he was. This proves why plaintiff doesn't always reply to the messages of defendants because there is so much strange things going on when Greer communicates with Mr. Hardin. The assumed private conversations between attorney and litigant are always leaked and so it's very unsettling. **EXHIBIT B.** The Court needs

to also take note that a person Greer has tried getting a restraint order on, Shannon Howe, a kiwi farms person, had messaged Greer on 1-7-25, the same day James Jorton tried getting the document, and Shannon wrote, "I'm back!" . These kiwi farms adherents are very creepy individuals.

Plaintiff informed Mr. Hardin this was the case Hardin was seeking

Mr. Greer informed Hardin that the forwarded case was the case Hardin was seeking.

EXHIBIT C. Plaintiff meant to also write in the email to Hardin that he could retrieve the restraining order himself, but forgot and assumed the case information was enough.

Mr. Hardin Never Replied to the Email Thread and Greer Assumed Hardin Contacted the Court Himself

Mr. Hardin never ever replied to the email thread and so Greer assumed since Hardin was Moon's representative that he would retrieve the document himself because again, Plaintiff didn't have the document either.

The Magistrate Judge's Order for Sanctions Caused Plaintiff to Lose Track of Everything Else

A week later, on January 14th, the Court issued ECF 218. This sudden, absolute shock caused plaintiff to lose track of the other documents filed because plaintiff was struck with grief and was focused on filing objections. Apparently, Defendants had filed their discovery motion the SAME DAY the order was filed. It was honestly just bad timing for both to be filed the same day

Defendants are Led by a Capable Lawyer and Have Not Demonstrated Why they Couldn't Retrieve the Filing

The document denial in EXHIBIT A was due to the fake account not being real or a party to the 2018 case. Since Joshua Moon is clearly listed as the answering party in that filing, Mr. Hardin should have had no problem getting the document he sought.

For defendants to claim harm or prejudice, after plaintiff passed on case information, shows their dishonesty.

With the facts established, plaintiff asks for reconsideration of the Court's ECF 227 Order, based on excusable neglect and other justifiable relief.

The Order Should Be Reconsidered Based on Excusable Neglect

Plaintiff asks for the Order to be set aside based plaintiff's excusable neglect. "excusable neglect" is understood to encompass situations in which failure to comply with a ... deadline is attributable to negligence." *Pioneer Inv. Servs. Co. v. Brunswick Assoc. Ltd. P'ship*, 507 U.S. 380, 394, 113 S.Ct. 1489, 123 L.Ed.2d 74 (1993).

Clearly, as seen in documented evidence, plaintiff gave the case number and a case filing to defendants. This shows that plaintiff was indeed cooperating with discovery.

Plaintiff quite literally said to defendants on 1-7-25, "This was the case from 2018 I was telling you about."

Mr. Hardin never replied and so Greer negligently assumed Hardin was going to retrieve the information that he wanted because Greer did not have the restraining order either!

In fact, on 1-7-25, 1-12-25, 1-13-25 and 1-14-25, plaintiff provided defendants with MORE information. This shows that plaintiff has been **COMPLYING WITH DISCOVERY!**

EXHIBIT D.

Then on 1-14-25, the Court's Order sanctioning Plaintiff, BLEW THE WIND out of plaintiff and plaintiff NEVER FOLLOWED UP on this restraining order request because (1) plaintiff thought it was a DONE AND OVER request and (2) plaintiff was focused on filing objections and missed the Short Form Discovery motion because both the Order and the Short Form Discovery Motion were filed the same day.

Plaintiff apologizes for not replying to the short form discovery the first time around, for the reasons he mentioned, but plaintiff did think he did comply with the defendants' request by

giving them the case information. Defendants have not shown why their counsel can't retrieve the document. Plaintiff has not received any other Third District Court notices of any other persons trying to retrieve the restraining order. And defendants never followed up on the restraining order. They did let plaintiff know their attorney fees amount. **EXHIBIT E.**

Based on plaintiff's excusable neglect thinking that he did meet the requirements for what defendants wanted and that they never followed up or even attempted to retrieve the document themselves, plaintiff asks for the Order in ECF 227 to be reconsidered, reversed and set aside.

The Order Should Be Reconsidered Based on Other Justification

Under an additional or alternative theory, under B(6), plaintiff argues that the Order should be reconsidered because plaintiff got overwhelmed with trying to provide everything to defendants and then receiving the 1-14-25 order made plaintiff forget about the restraining order. It was just honestly bad timing that both the Order and the short firm discovery were filed on the same day. When defendants asked if plaintiff got their attorney fees email, he said he was filing objections. Plaintiff re-looked and defendants never again followed up on a restraining order.

The exhibits show that plaintiff has indeed complied and cooperated with discovery. There is no reason for plaintiff to be sanctioned under FRCP 37. Defendants have never shown why they can't get the document because plaintiff does not have the document either. That was why Greer forwarded the Third District Court notice, so that the defendants could retrieve the document themselves.

CONCLUSION

Plaintiff would ask for the 1-14-25 Order to be reconsidered and set aside, based on the reasons listed herein.

Respectfully

DATED: 2-20-25

Russell Greer

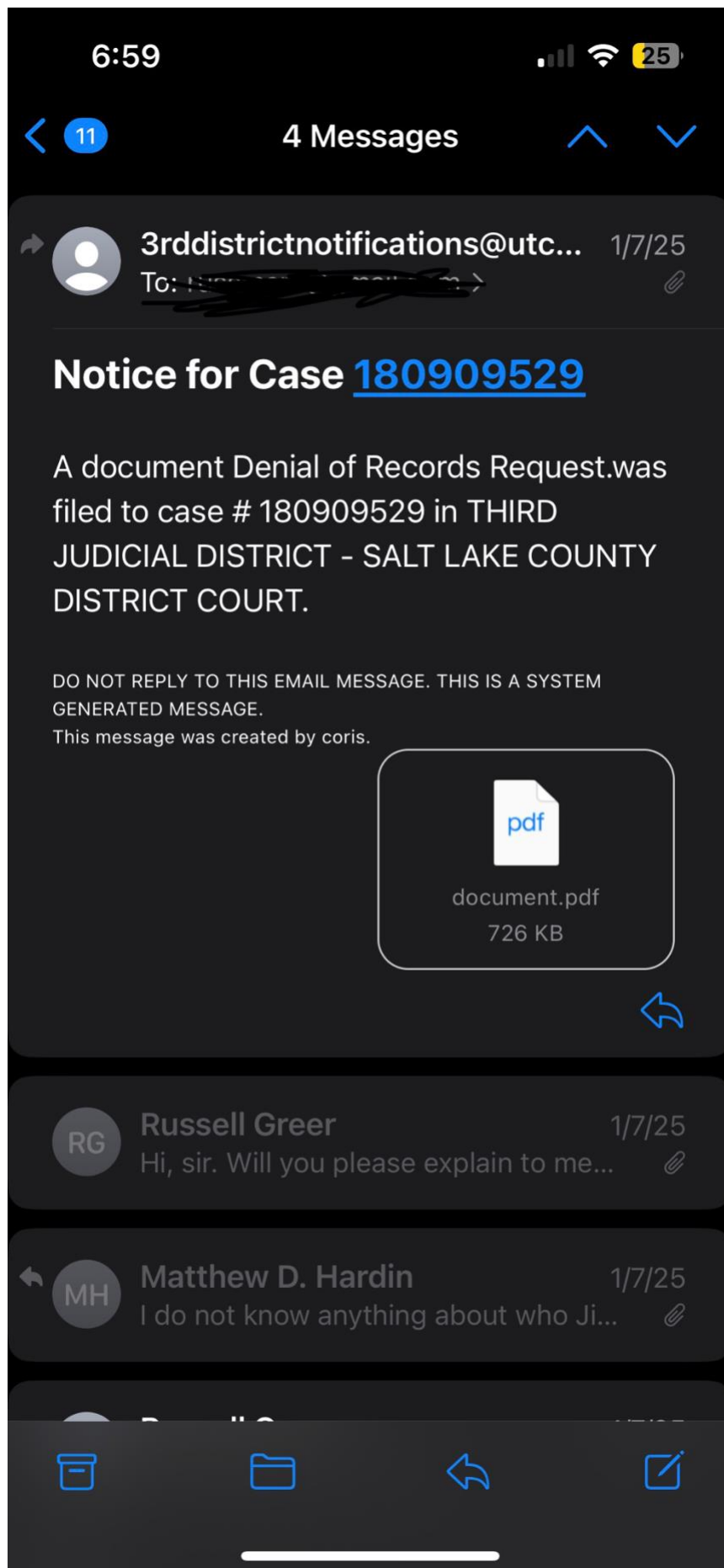
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Pro Se

CERTIFICATE OF SERVICE:

Pursuant to FRCP 5(b), I certify that on 2-20-25, I served a true and correct copy of the attached document by ECF to all attorneys on record.

EXHIBIT A



6:59



document.pdf

Done

1 of 2

The Order of the Court is stated below:

Dated: January 07, 2025
11:57:49 AM/s/ ROBERT FAUST
District Court JudgeTHIRD JUDICIAL DISTRICT - SALT LAKE COUNTY DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAHRUSSELL GODFREY GREER,
Petitioner,

vs.

JOSHUA C MOON,
Respondent.

RULING

Denial of Records Request.

Case No: 180909529

Judge: ROBERT FAUST

Date: January 7, 2025

The Court denies the records request as James Jorton is not a party to the case and his basis of wanting to access private records does not comply with the requires of the Rule. Just because Mr. Jorton personally believes a strong public interest in having all records does not make it so. Further, the Court did not find or determine any abuse of process by either party in the case Mr. James Jorton seeks to look it.

End Of Order - Signature at the Top of the First Page

EXHIBIT B

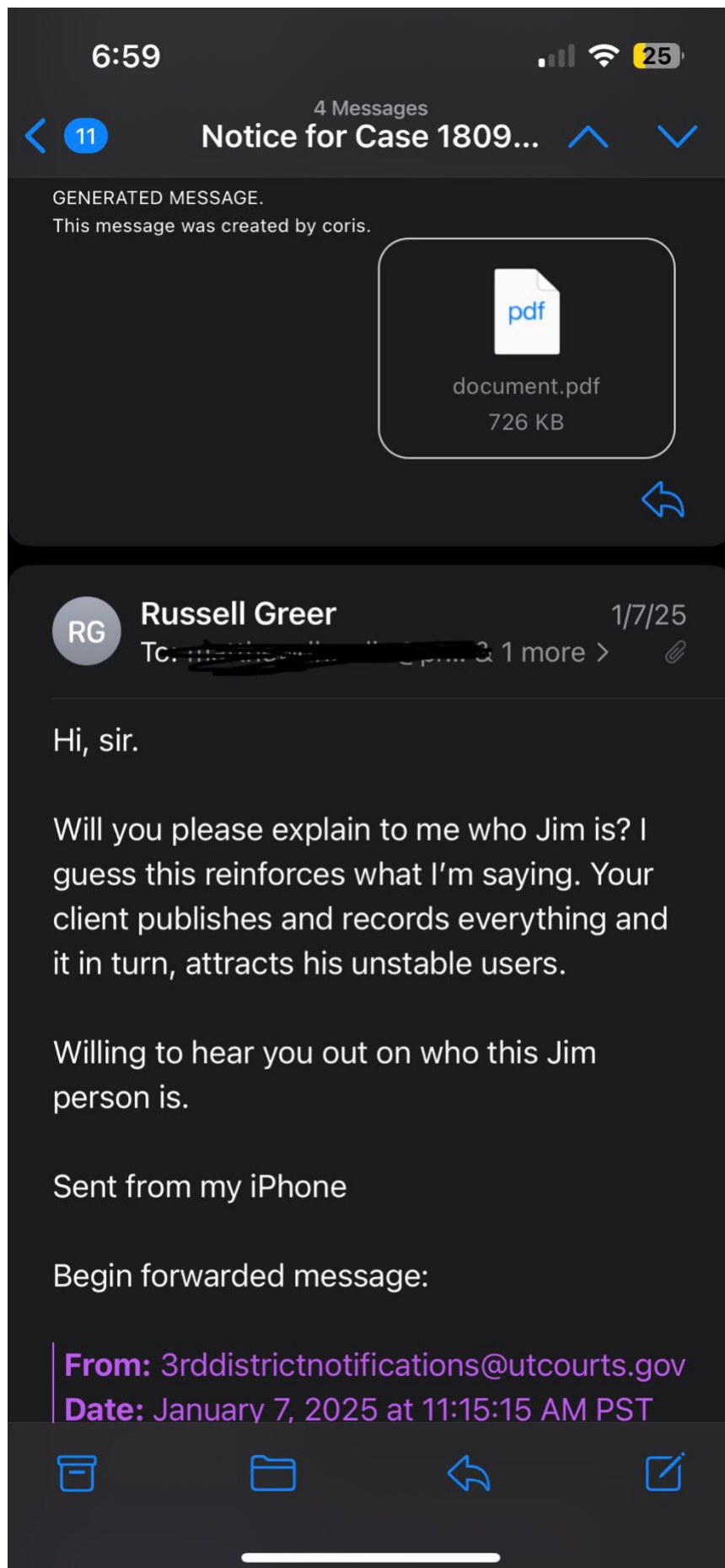


EXHIBIT C

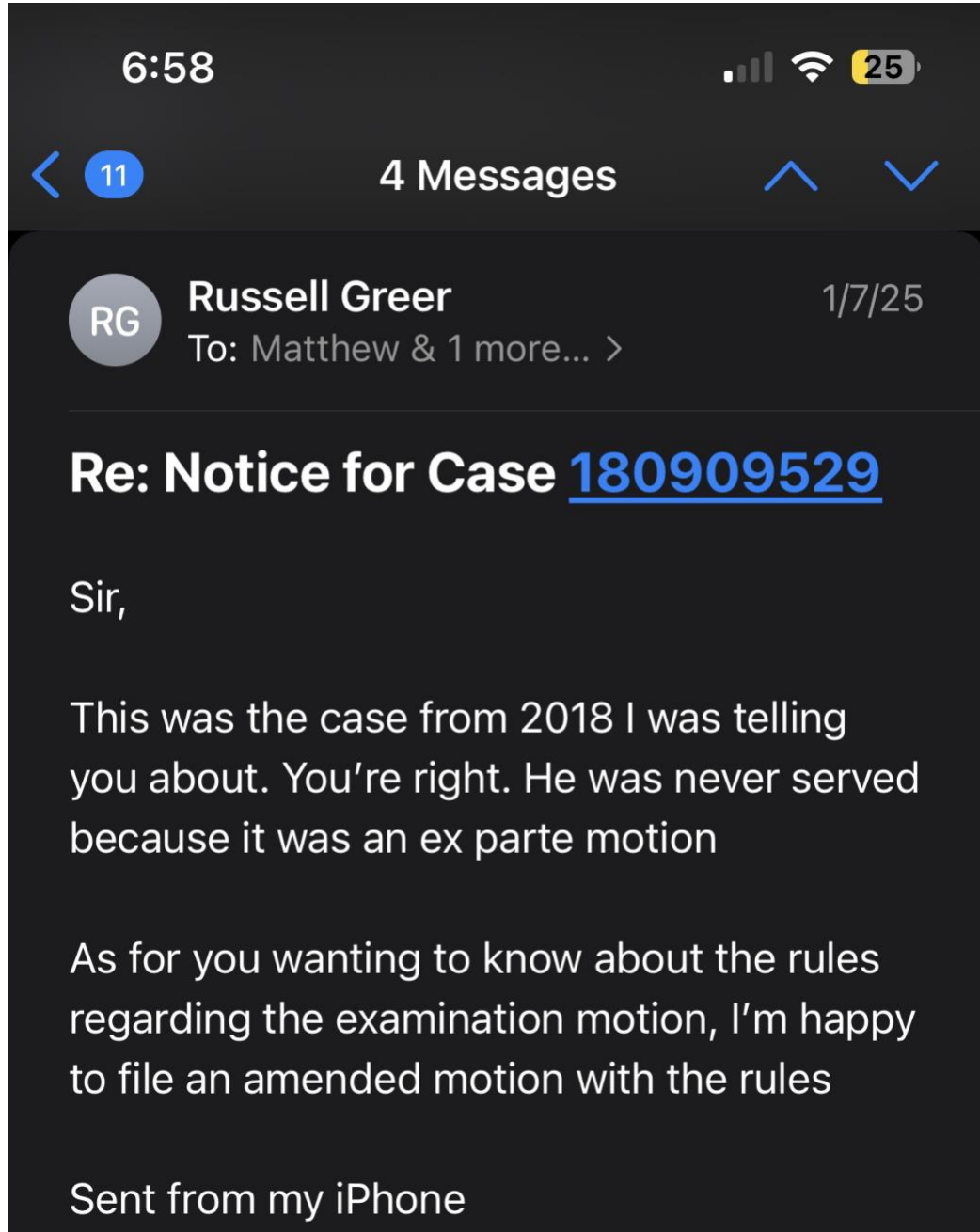
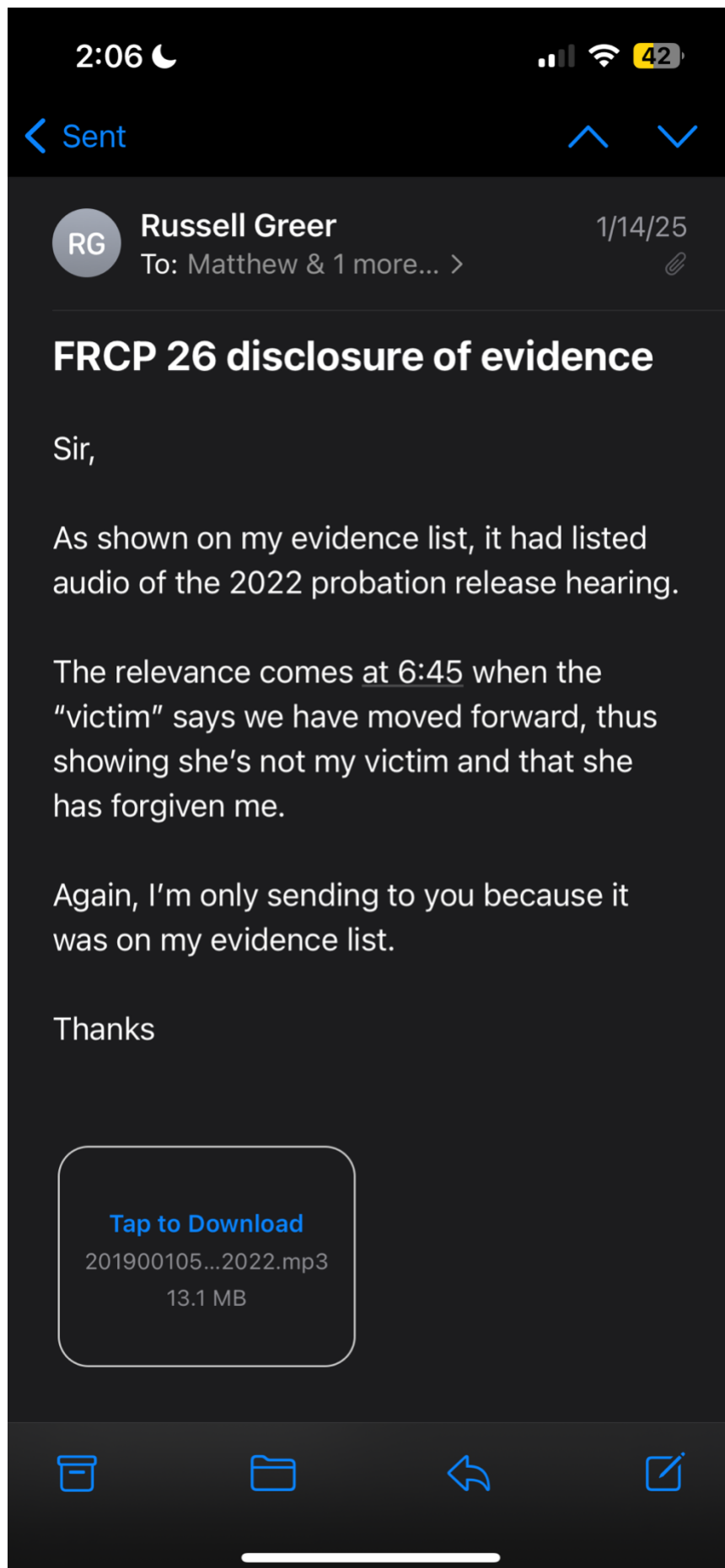
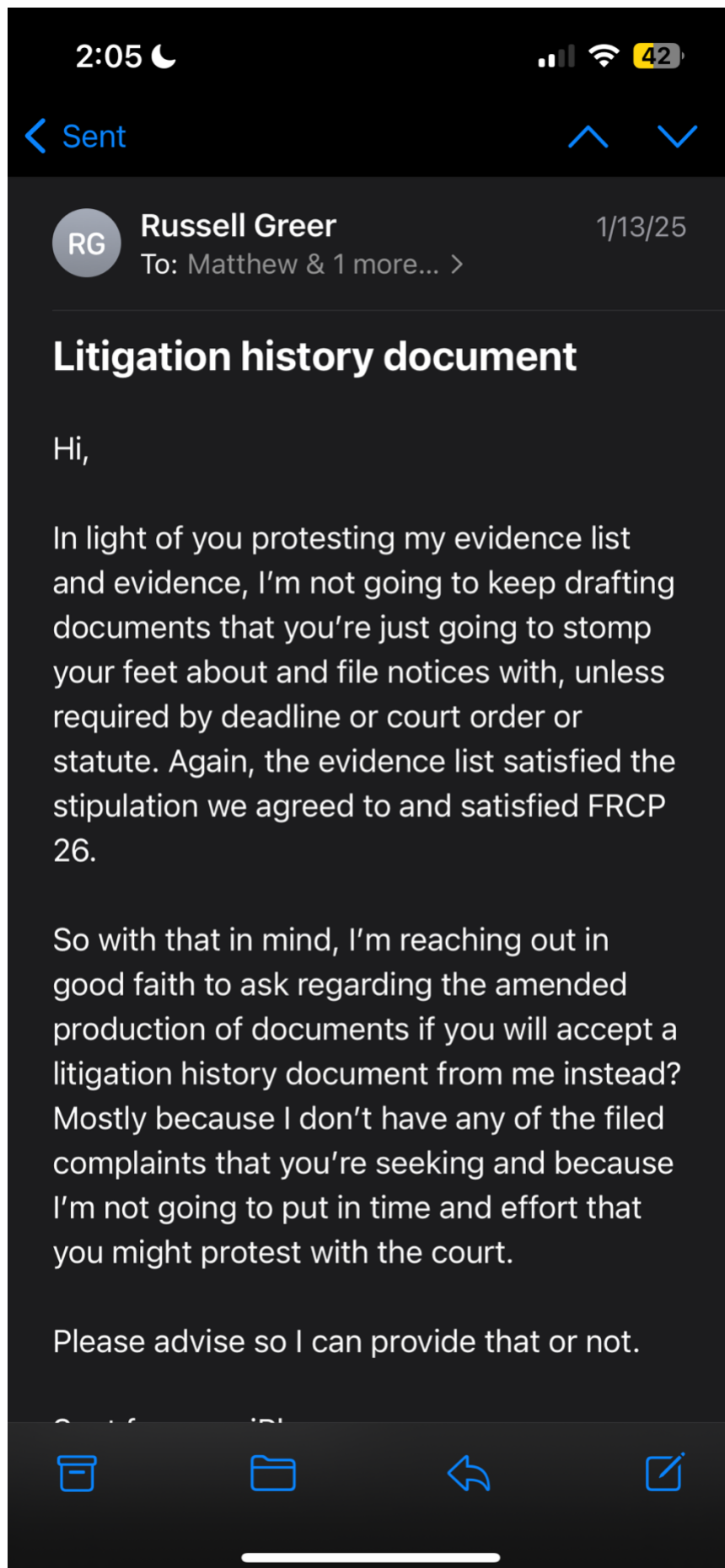


EXHIBIT D





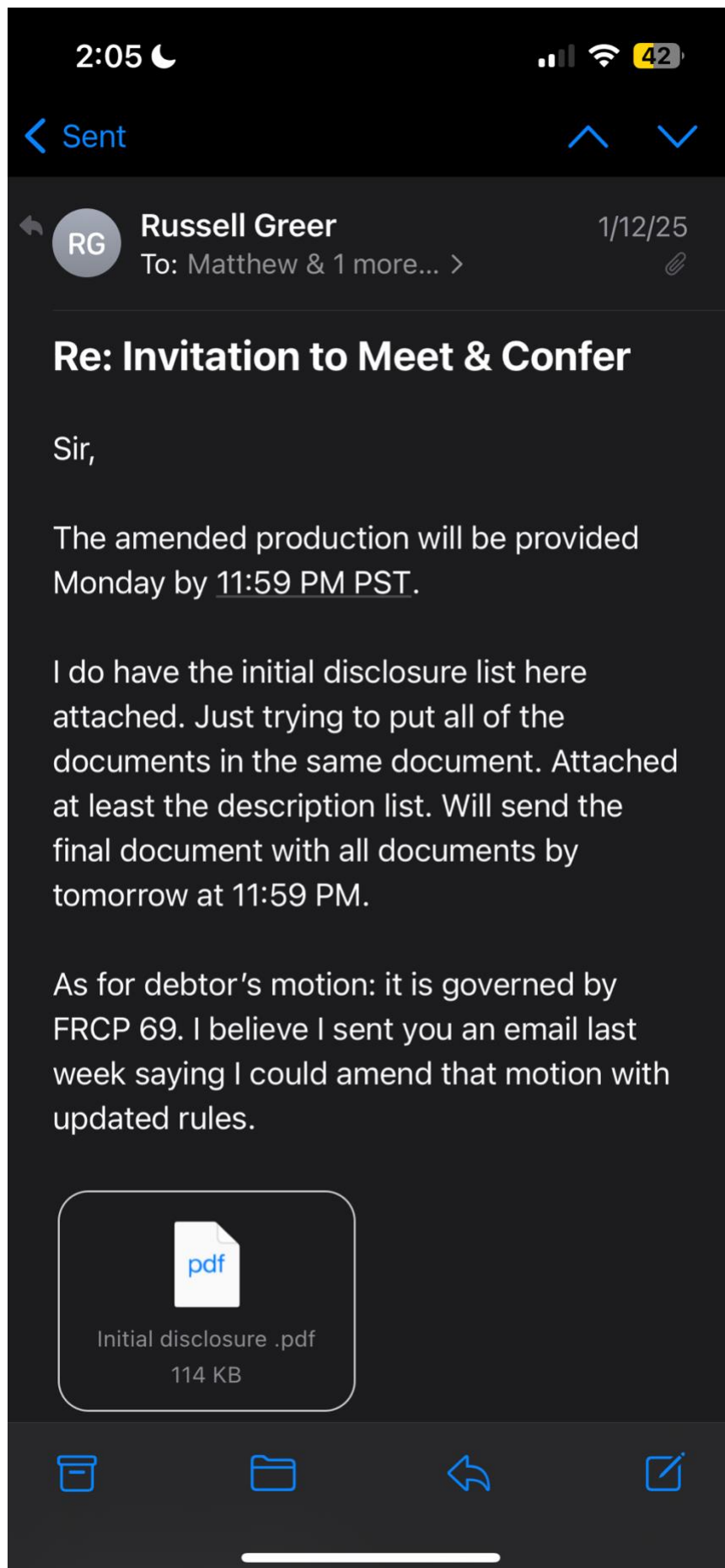


EXHIBIT E

